

# DECISION



THE COMPTROLLER GENERAL  
OF THE UNITED STATES  
WASHINGTON, D. C. 20548

60743

FILE: B-184934

DATE: April 12, 1976

MATTER OF: Jet Services, Inc.

99079

## DIGEST:

Where IFB for food services set forth recommended manning list for informational purposes only and list was based on operation by earlier contractor, instead of acceptable less stringent operation by incumbent contractor, whose bid price for immediate procurement represents less than recommended manning level, whereas second low bid price is in line with recommendation, it is recommended that IFB be canceled, since Government has duty to exercise highest standard of care as to correctness of information in IFB and duty was not performed.

Jet Services, Inc., protested against the award of a contract for food preparation and services at Wheeler Air Force Base to Mercantile Services, Ltd. (Mercantile), under invitation for bids (IFB) F64605-75-09682, issued by PACAF Procurement Center, Hawaii.

Bids were to be submitted on a unit and total price basis for preparing and serving an estimated 153,200 meals. Mercantile's total bid in the amount of \$164,402 was the lowest received. Jet Services' bid in the total amount of \$234,396 was the next lowest. The remaining bids were \$283,420 and \$321,720. The Air Force determined that Mercantile was the low responsive and responsible bidder fully capable of performing the contract in accordance with the terms and conditions contained in the IFB.

Jet Services contends that the Mercantile bid should be rejected for three reasons. First, Jet Services contends that the Mercantile bid is nonresponsive, because it bid \$1.065 per meal for the months in which 13,000 meals were estimated and \$1.085 per meal for the months in which 12,500 and 12,200 meals were estimated, instead of bidding a single unit price for all meals. Second, Jet Services contends that Mercantile is nonresponsive and nonresponsible, because it will not be complying with the recommended manning list included in the IFB. Third, Jet Services contends that the manning list was totally erroneous and misleading if it was not to be followed and used for evaluating responsibility and/or responsiveness.

With respect to the last contention, paragraph 19, "Work Force," in the supplemented Military Specification MIL-F-9892C (USAF) in the IFB requires the contractor to provide sufficient personnel for the performance of the contract. Included in the paragraph is a statement:

"The following list is the recommended manning required under this contract for informational purposes only."

Following the statement, there is a list of work categories, the number of personnel for each category and the daily work periods. Further, although not specifically referring to the manning list, paragraph 28, "Determining Responsibility of Bidders," in section "C" of the IFB states:

"Bidders may be rejected on responsibility grounds, if the number of employees \* \* \* [is] determined inadequate for the proper performance of the services covered by this solicitation."

The manning list was based on the force preparation and service operation managed by Jet Services at Wheeler Air Force Base prior to September 30, 1973, although Mercantile, who is the incumbent contractor, has been operating on a different basis. For example, although the manning list recommends two second cooks on the week-day 5:00 a.m. to 1:00 p.m. and the 10:30 a.m. to 6:30 p.m. shifts, Mercantile's actual manning has had one in each shift. Also, although on the list for weekends and holidays, Mercantile does not employ for those days a second cook for the 6:00 a.m. to 1:00 p.m. shift, a senior cook for the 11:30 a.m. to 6:30 p.m. shift nor a store room clerk. Moreover, instead of being present for the full periods shown in the manning list, Mercantile's cooks and mess attendants work part time.

The Air Force has stated that the manning list was intended to be used only as a guideline. However, Jet Services has indicated that the list impacted upon its bid. In that regard, it is noted that the Air Force estimate for the contract based upon an extension of the recommended manning in the IFB by the current wage determination is \$211,270.39. The Air Force has stated that the Mercantile bid of \$164,402 represents only 78 percent of the recommended manning level. In addition, the Air Force has indicated that Mercantile actually mans the operation on an acceptable basis at less

B-184934

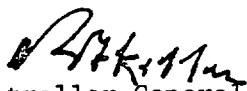
than the recommended manning level. On the other hand, Jet Services' bid in the amount of \$234,396 is in line with the Air Force estimate for manning at the recommended level.

Although the incumbent contractor was performing in an acceptable manner with less than the recommended manning, the Air Force relied upon the manning base of the earlier contractor in preparing the list for the current IFB. In Inflated Products Company, Inc., B-183947, March 11, 1976, 55 Comp. Gen. \_\_\_\_\_, it was indicated that where the Government utilizes information in a solicitation, even though intended only as a guideline and for informational purposes, and the information may be relied on by bidders or offerors, the Government is under a duty to exercise the highest standard of care as to the correctness of the information. The duty was not performed in the immediate case, since it was not based upon the current information which was available.

In the circumstances, it is not necessary for us to decide whether Mercantile is the lowest responsive and responsible bidder. If it is, this may have been accomplished because Jet Services was misled by the recommended manning list. If it is not, the Government would be contracting with Jet Services at a higher price than would have been obtained if Jet Services was not misled by the IFB.

Accordingly, in view of the foregoing and since no award has been made under the IFB, it is recommended that the IFB be canceled and the procurement be resolicited upon a proper basis. Also, steps should be taken in the resolicitation to clarify the other aspects of the original IFB that gave rise to the protest.

Since this decision contains a recommendation for corrective action, a copy is being forwarded to each of the Committees referenced in section 236 of the Legislative Reorganization Act of 1970, 31 U.S.C. § 1176 (1970).

  
Deputy Comptroller General  
of the United States